UNITED
NATIONS

A S

General Assembly Security Council

Distr.
GENERAL

A/45/543
S/21823
10 October 1990

ORIGINAL: ENGLISH

GENERAL ASSEMBLY
Forty-fifth session
Agenda item 15 (c)
ELECTIONS TO FILL VACANCIES IN PRINCIPAL ORGANS: ELECTION OF FIVE MEMBERS OF THE INTERNATIONAL COURT OF JUSTICE

SECURITY COUNCIL
Forty-fifth year

Memorandum by the Secretary-General

CONTENTS

		Paragraphs	Page
I.	INTRODUCTION	1 - 2	2
II.	COMPOSITION OF THE INTERNATIONAL COURT OF JUSTICE	3	2
III.	PROCEDURE IN THE GENERAL ASSEMBLY AND IN THE SECURITY COUNCIL	4 - 18	3

I. INTRODUCTION

1. On 5 February 1991, the terms of office of the following five members of the International Court of Justice will expire:

Mr. J. M. Ruda (Argentina)

Mr. K. Mbaye (Senegal)

Sir Robert Jennings (United Kingdom of Great Britain and Northern Ireland)

Mr. G. Guillaume (France)

Mr. R. S. Pathak (India)

It is therefore necessary for the General Assembly and the Security Council, during the forty-fifth session of the Assembly, to elect five judges for a term of office of nine years, beginning on 6 February 1991.

2. The Secretary-General requested nominations from the national groups of States parties to the Statute of the Court by 15 August 1990. The nominations received by that date and the curricula vitae of the candidates are contained in separate documents submitted to the General Assembly and to the Security Council (A/45/544 and A/45/545). Furthermore, the list of candidates will appear on the ballot papers distributed during the elections. The object of this memorandum is to set out the present composition of the International Court of Justice and to describe the procedure in the Assembly and the Security Council with regard to the election.

II. COMPOSITION OF THE INTERNATIONAL COURT OF JUSTICE

3. The present composition of the International Court of Justice is as follows:

President: José María Ruda (Argentina)*

Vice-President: Kéba Mbaye (Senegal)*

Judges: Manfred Lachs (Poland)**
Taslim Olawale Elias (Nigeria)**
Shigeru Oda (Japan)**
Roberto Ago (Italy)***
Stephen M. Schwebel (United States of America)***
Sir Robert Yewdall Jennings (United Kingdom of Great Britain and Northern Ireland)*
Mohammed Bedjaoui (Algeria)***
Ni Zhengyu (China)**
Jens Evensen (Norway)**
Nikolai K. Tarassov (Union of Soviet Socialist Republics)***
Gilbert Guillaume (France)*

Mohamed Shahabuddeen (Guyana)***
Raghunandan Swarup Pathak (India)*

---

* Term of office expires on 5 February 1991.

** Term of office expires on 5 February 1994.

*** Term of office expires on 5 February 1997.

III. PROCEDURE IN THE GENERAL ASSEMBLY AND IN THE SECURITY COUNCIL

4. The election will take place in accordance with the following:

(a) The Statute of the Court, in particular Articles 2 to 4 and 7 to 12;

(b) Rules 150 and 151 of the rules of procedure of the General Assembly;

(c) Rules 40 and 61 of the provisional rules of procedure of the Security Council.

5. In accordance with General Assembly resolution 264 (III) of 8 October 1948, Nauru, San Marino and Switzerland, which are parties to the Statute of the Court but not Members of the United Nations, will participate in the General Assembly in electing members of the Court in the same manner as the States Members of the United Nations.

6. On the date of the election, the General Assembly and the Security Council will proceed, independently of one another, to elect five members of the Court (Article 8 of the Statute).

7. According to Article 2 of the Statute, judges are to be elected, regardless of their nationality, from among persons of high moral character, who possess the qualifications required in their respective countries for appointment to the highest judicial offices, or are jurisconsults of recognized competence in international law. Article 9 requires electors to bear in mind not only that the persons to be elected should individually possess the qualifications required, but also that in the body as a whole the representation of the main forms of civilization and of the principal legal systems of the world should be assured.

8. Those candidates who obtain an absolute majority of votes both in the General Assembly and in the Security Council will be considered as elected (Article 10, paragraph 1, of the Statute).

9. The consistent practice of the United Nations has been to interpret the words "absolute majority" as meaning a majority of all electors, whether or not they

READEX FICHE

vote. The electors in the General Assembly are all the Member States, together with the three non-member States mentioned in paragraph 5 above which are parties to the Statute of the Court. Accordingly, as at the date of the present memorandum, eighty-two (82) votes constitute an absolute majority in the Assembly for the purpose of the Court election.

10. In the Security Council, eight votes constitute an absolute majority and no distinction is made between permanent and non-permanent members of the Council (Article 10, paragraph 2, of the Statute).

11. Only those candidates whose names appear on the ballot papers are eligible for election. The electors in the General Assembly and in the Security Council will indicate the candidates for whom they wish to vote by placing crosses against their names on the ballot papers. Each elector may vote for not more than five candidates on the first ballot, and on subsequent ballots, if any, for five less the number of candidates who have already obtained absolute majorities.

12. At the 915th plenary meeting of the General Assembly, on 16 November 1960, a procedural discussion took place as to whether rule 94 (then rule 96) of the rules of procedure of the Assembly should be applied in elections to the International Court of Justice. This rule lays down a procedure for restricted ballots in the event that after the first ballot the requisite number of candidates have not obtained the required majority. By 47 votes to 27, with 25 abstentions, the Assembly decided that the rule did not apply to elections to the Court and it proceeded to elect the requisite number of candidates by a series of unrestricted ballots. This decision has been followed consistently.

13. If in the first ballot, in either the General Assembly or the Security Council, the number of candidates obtaining an absolute majority is less than five, a second ballot will be held and balloting will continue in the same meeting until five candidates have obtained the required majority (rule 151 of the rules of procedure of the Assembly and rule 61 of the provisional rules of procedure of the Council).

14. Cases have arisen in the Security Council in which more than the required number of candidates have obtained an absolute majority on the same ballot. The practice followed by the Council has been to hold a new vote on all the candidates, and the President of the Council made no notification to the President of the General Assembly until only the required number of candidates, and no more, had obtained an absolute majority in the Council.

15. Only when five candidates have obtained the required majority in one of the organs will the President of that organ notify the President of the other organ of the names of the five candidates. The President of the latter should not communicate such names to the members of that organ until that organ has itself given five candidates the required majority of votes.

16. If, upon comparison of the respective lists of names that have obtained an absolute majority in the General Assembly and in the Security Council, fewer than

five candidates have been thus elected pursuant to paragraph 8 above, the Assembly and the Council will proceed, again independently of one another, in a second meeting and, if necessary, a third meeting, to elect candidates by further ballots for seats remaining vacant (Article 11 of the Statute), the results again being compared after the required number of candidates have obtained an absolute majority in each organ.

17. If, however, after the third meeting, one or more seats still remain unfilled, the General Assembly and the Security Council may at any time, at the request of either organ, form a joint conference consisting of six members, three appointed by each organ. This joint conference may, by an absolute majority, agree upon one name for each seat still vacant and submit the name or names for the respective acceptance of the Assembly and the Council. If the joint conference is unanimously agreed, it may submit the name of a person not included in the list of nominations, provided that that candidate fulfils the required conditions (Article 12, paragraph 2, of the Statute).

18. If the joint conference is satisfied that it will not be successful in procuring an election, those members of the Court who have already been elected will, within a period to be fixed by the Security Council, proceed to fill the vacant seat or seats by selection from among those candidates who have obtained votes either in the General Assembly or in the Security Council. In the event of an equality of votes among the judges, the eldest judge will have a casting vote (Article 12, paragraphs 3 and 4, of the Statute).

UNITED
NATIONS

A S

General Assembly Security Council

Distr.
GENERAL

A/45/544
S/21824
26 September 1990

ORIGINAL: ENGLISH

GENERAL ASSEMBLY
Forty-fifth session
Agenda item 15 (c)
ELECTIONS TO FILL VACANCIES IN
PRINCIPAL ORGANS: ELECTION OF
FIVE MEMBERS OF THE INTERNATIONAL
COURT OF JUSTICE

SECURITY COUNCIL
Forty-fifth year

List of candidates nominated by national groups

Note by the Secretary-General

1. By a communication dated 15 January 1990, addressed on behalf of the Secretary-General to States parties to the Statute of the International Court of Justice, attention was drawn to the fact that the terms of office of the following five members of the International Court of Justice will expire on 5 February 1991:

Mr. J. M. Ruda (Argentina)

Mr. K. Mbaye (Senegal)

Sir Robert Jennings (United Kingdom of Great Britain and Northern Ireland)

Mr. G. Guillaume (France)

Mr. R. S. Pathak (India)

2. In conformity with Articles 4 and 13 of the Statute of the Court, the General Assembly and the Security Council, during the forty-fifth regular session of the General Assembly, will elect five judges for a period of nine years, beginning on 6 February 1991. In accordance with paragraph 1 of Article 5 of the Statute of the Court, national groups were thus invited to undertake the nomination of persons in a position to accept the duties of a member of the Court and to submit such nomination to the Secretary-General no later than 15 August 1990.

3. In accordance with Article 7 of the Statute of the Court, the Secretary-General has the honour to submit to the General Assembly and to the Security Council a list in alphabetical order of the candidates thus nominated (see annex).

4. The composition of the Court and the voting procedure to be followed in the General Assembly and in the Security Council will be set out in a memorandum by the Secretary-General, as document A/45/543-S/21823. The curricula vitae of the candidates will appear in document A/45/545-S/21825.

ANNEX

List of candidates nominated by national groups

Name and nationality	Nominated by the national group of
Aguilar Mawdsley, Andrés (Venezuela)	Austria Belgium Canada Colombia Denmark Dominican Republic Greece Finland Ireland Jamaica Luxembourg Mexico Netherlands Spain Switzerland United Kingdom of Great Britain and Northern Ireland United States of America Vanuatu Venezuela
Amega, Atsu-Koffi (Togo)	Togo
Asante, Samuel K. B. (Ghana)	Federal Republic of Germany Ghana Ireland
Gross Espiell, Hector (Uruguay)	Colombia Federal Republic of Germany Philippines Senegal Uruguay
Guillaume, Gilbert (France)	Algeria Australia Austria Belgium Bulgaria Canada Czechoslovakia Denmark Dominican Republic

/...

Name and nationality	Nominated by the national group of
	Federal Republic of Germany
	Finland
	France
	Greece
	Italy
	Luxembourg
	Netherlands
	Senegal
	Spain
	Sweden
	Switzerland
	United Kingdom of Great Britain and Northern Ireland
	United States of America
	Uruguay
Jennings, Sir Robert Yewdall (United Kingdom of Great Britain and Northern Ireland)	Australia
	Austria
	Belgium
	Canada
	Czechoslovakia
	Denmark
	Dominican Republic
	Finland
	France
	Federal Republic of Germany
	Greece
	Italy
	Jamaica
	Luxembourg
	Mexico
	Netherlands
	New Zealand
	Spain
	Sweden
	Switzerland
	Turkey
	United Kingdom of Great Britain and Northern Ireland
	Uruguay
	United States of America
	Venezuela
Mudawi, Mohamed Yousif (Sudan)	Sudan
	Mexico

Name and nationality	Nominated by the national group of
Patel, Dorab (Pakistan)	Belgium Denmark Finland Nepal Senegal Sweden Turkey United Kingdom of Great Britain and Northern Ireland United States of America
Pathak, Raghunandan Swarup (India)	Ireland
Ranjeva, Raymond (Madagascar)	Canada France Madagascar
Razafindralambo, Edilbert (Madagascar)	Greece Luxembourg Switzerland
Sucharitkul, Sompong (Thailand)	Netherlands
Sy, Seydou Madani (Senegal)	France Senegal Thailand
Syquia, Enrique P. (Philippines)	Dominican Republic Mexico Philippines Thailand Uruguay
Weeramantry, Christopher Gregory (Sri Lanka)	New Zealand Sri Lanka

---

UNITED NATIONS

A S

General Assembly Security Council

Distr.
GENERAL

A/45/544/Add.1
S/21824/Add.1
29 October 1990
ENGLISH
ORIGINAL: ENGLISH/SPANISH

GENERAL ASSEMBLY
Forty-fifth session
Agenda item 15 (c)
ELECTIONS TO FILL VACANCIES IN PRINCIPAL ORGANS: ELECTION OF FIVE MEMBERS OF THE INTERNATIONAL COURT OF JUSTICE

SECURITY COUNCIL
Forty-fifth year

List of candidates nominated by national groups

Note by the Secretary-General

Addendum

1. Further to his note of 26 September 1990 (A/45/544-S/21824), which contained the names of the candidates nominated by national groups received by him prior to 15 August 1990, the Secretary-General has subsequently received the following additional nominations submitted by national groups:

Name and nationality	Nominated by the national group of
Aguilar Mawdsley, Andrés (Venezuela)	Italy (28 September 1990) Liechtenstein (28 September 1990) Madagascar (16 October 1990)
Gros Espiell, Hector* (Uruguay)	Paraguay (16 October 1990)

* See also para. 3 below.

Names and nationality	Nominated by the national group of
Guillaume, Gilbert (France)	Colombia (18 October 1990) Hungary (5 October 1990) Liechtenstein (28 September 1990) Madagascar (16 October 1990)
Jennings, Sir Robert Yewdall (United Kingdom of Great Britain and Northern Ireland)	Colombia (8 October 1990) Hungary (5 October 1990) Liechtenstein (28 September 1990)
Razafindralambo, Edilbert (Madagascar)	Liechtenstein (28 September 1990)
Syquia, Enrique (Philippines)	Vanuatu (31 August 1990)
Weeramantry, Christopher Gregory (Sri Lanka)	Papua New Guinea (17 October 1990)

2. The Secretary-General received a note verbale, dated 1 October 1990, from the Permanent Mission of Turkey to the United Nations, which read, in part, as follows:

> "... has the honour to inform that the Turkish National Group ... is ... withdrawing the candidature of Justice Dorab Patel for the above-mentioned election".

3. The Secretary-General also received a letter, dated 23 October 1990, from the Permanent Mission of Uruguay, which read, in part, as follows:

> "I have the honour to inform the Secretary-General that Dr. Hector Gros Espiell, Minister for Foreign Affairs of Uruguay, has decided to withdraw his candidature for election to the International Court of Justice."

UNITED NATIONS

A S

General Assembly Security Council

Distr.
GENERAL

A/45/544/Add.2
S/21824/Add.2
12 November 1990

ORIGINAL: ENGLISH

GENERAL ASSEMBLY
Forty-fifth session
Agenda item 15 (c)
ELECTIONS TO FILL VACANCIES IN PRINCIPAL ORGANS: ELECTION OF FIVE MEMBERS OF THE INTERNATIONAL COURT OF JUSTICE

SECURITY COUNCIL
Forty-fifth year

List of candidates nominated by national groups

Note by the Secretary-General

Addendum

1. Further to his note of 26 September 1990 (A/45/544-S/21824), which contained the names of the candidates nominated by national groups received by the Secretary-General prior to 15 August 1990, and to the addendum to that note, which contained additional nominations submitted by national groups received by him after that date, the Secretary-General has received the following additional nominations submitted by national groups:

Name and nationality	Nominated by the national group of
Aguilar Mawdsley, Andrés (Venezuela)	Brazil (5 November 1990) Chile (8 November 1990)
Guillaume, Gilbert (France)	Chile (8 November 1990) Turkey (31 October 1990)
Jennings, Sir Robert Yewdall (United Kingdom of Great Britain and Northern Ireland)	Chile (8 November 1990)
Syquia, Enrique P. (Philippines)	Chile (8 November 1990)

2. The Secretary-General received a letter dated 9 November 1990 from His Excellency, Mr. R. S. Pathak, which reads, in part, as follows:

> "... I have decided not to stand as a candidate at the said election ... I take this opportunity of conveying my decision to withdraw forthwith from the election to the vacancies arising in the International Court of Justice on 6 February 1991 and request that my name be removed from the aforesaid list of candidates ..."

3. On 12 November, the Secretary-General received a letter, of the same date, from the Permanent Representative of the Sudan to the United Nations, informing him, inter alia, that:

> "... Mr. Mohamed Yousif Mudawi has decided to withdraw his candidature for election to the membership of the International Court of Justice ...".

UNITED
NATIONS

A S

General Assembly Security Council

Distr.
GENERAL

A/45/544/Rev.1
S/21824/Rev.1
12 November 1990

ORIGINAL: ENGLISH

GENERAL ASSEMBLY
Forty-fifth session
Agenda item 15 (c)
ELECTIONS TO FILL VACANCIES IN
PRINCIPAL ORGANS: ELECTION OF
FIVE MEMBERS OF THE INTERNATIONAL
COURT OF JUSTICE

SECURITY COUNCIL
Forty-fifth year

List of candidates nominated by national groups

Note by the Secretary-General

1. By a communication dated 15 January 1990, addressed on behalf of the Secretary-General to States parties to the Statute of the International Court of Justice, attention was drawn to the fact that the terms of office of the following five members of the International Court of Justice will expire on 5 February 1991:

Mr. J. M. Ruda (Argentina)

Mr. K. Mbaye (Senegal)

Sir Robert Jennings (United Kingdom of Great Britain and Northern Ireland)

Mr. G. Guillaume (France)

Mr. R. S. Pathak (India)

2. In conformity with Articles 4 and 13 of the Statute of the Court, the General Assembly and the Security Council, during the forty-fifth regular session of the General Assembly, will elect five judges for a period of nine years, beginning on 6 February 1991. In accordance with paragraph 1 of Article 5 of the Statute of the Court, national groups were thus invited to undertake the nomination of persons in a position to accept the duties of a member of the Court and to submit such nomination to the Secretary-General no later than 15 August 1990.

3. In accordance with Article 7 of the Statute of the Court, the Secretary-General submitted on 26 September 1990 to the General Assembly and to the Security Council a list, in alphabetical order, of the candidates thus nominated (A/45/544-S/21824).

4. On 29 October 1990, the Secretary-General further submitted to the General Assembly and to the Security Council additional nominations made by national groups received by him after the deadline of 15 August 1990 (A/45/544/Add.1-S/21824/Add.1).

5. The composition of the Court and the voting procedure to be followed in the General Assembly and in the Security Council was set out in a memorandum by the Secretary-General (A/45/543-S/21823). The curricula vitae of the candidates appeared in document A/45/545-S/21825.

6. At its 37th plenary meeting, held on 7 November 1990, the President drew the attention of the General Assembly to the documents relating to the election mentioned above. He announced that additional notifications of nominations from national groups had been received by the Secretary-General and that a further addendum to document A/45/544-S/21824 would be issued. Upon the proposal of the President, the General Assembly decided to request the Secretariat to issue a consolidated and updated list (see annex) of candidates reflecting all the information received since the issuance of the original text, thus facilitating the election for all representatives. Pursuant to that decision, the present document has been prepared.

ANNEX

List of candidates nominated by national groups

Name and nationality	Nominated by the national group of
Aguilar Mawdsley, Andrés (Venezuela)	Austria Belgium Brazil Canada Chile Colombia Denmark Dominican Republic Greece Finland Ireland Italy Jamaica Liechtenstein Luxembourg Madagascar Mexico Netherlands Spain Switzerland United Kingdom of Great Britain and Northern Ireland United States of America Vanuatu Venezuela
Amega, Atsu-Koffi (Togo)	Togo
Asante, Samuel K. B. (Ghana)	Federal Republic of Germany Ghana Ireland
Guillaume, Gilbert (France)	Algeria Australia Austria Belgium Bulgaria Canada Chile Colombia Czechoslovakia Denmark

/...

Name and nationality	Nominated by the national group of
	Dominican Republic
	Federal Republic of Germany
	Finland
	France
	Greece
	Hungary
	Italy
	Liechtenstein
	Luxembourg
	Madagascar
	Netherlands
	Senegal
	Spain
	Sweden
	Switzerland
	Turkey
	United Kingdom of Great Britain and Northern Ireland
	United States of America
	Uruguay
Jennings, Sir Robert Yewdall (United Kingdom of Great Britain and Northern Ireland)	Australia
	Austria
	Belgium
	Canada
	Chile
	Colombia
	Czechoslovakia
	Denmark
	Dominican Republic
	Finland
	France
	Federal Republic of Germany
	Greece
	Hungary
	Italy
	Jamaica
	Liechtenstein
	Luxembourg
	Mexico
	Netherlands
	New Zealand
	Spain
	Sweden
	Switzerland
	Turkey
	United Kingdom of Great Britain and Northern Ireland

Name and nationality	Nominated by the national group of
	Uruguay
	United States of America
	Venezuela
Patel, Dorab (Pakistan)	Belgium
	Denmark
	Finland
	Nepal
	Senegal
	Sweden
	United Kingdom of Great Britain and Northern Ireland
	United States of America
Ranjeva, Raymond (Madagascar)	Canada
	France
	Madagascar
Razafindralambo, Edilbert (Madagascar)	Greece
	Liechtenstein
	Luxembourg
	Switzerland
Sucharitkul, Sompong (Thailand)	Netherlands
Sy, Seydou Madani (Senegal)	France
	Senegal
	Thailand
Syquia, Enrique P. (Philippines)	Chile
	Dominican Republic
	Mexico
	Philippines
	Thailand
	Uruguay
	Vanuatu
Weeramantry, Christopher Gregory (Sri Lanka)	New Zealand
	Papua New Guinea
	Sri Lanka